



## MINORITY & WOMEN BUSINESS ENTERPRISE COMMISSION (MWBE)

### MINUTES

The regular meeting of the Minority and Women Business Enterprise Commission was called to order by Walter Soto, Vice Chairperson, on Thursday, August 29, 2007, at 5:31 p.m., in the Office of Equal Opportunity Programs (OEOP) and Independent Police Review Conference Room, 100 North Stone Avenue, Suite 109, Tucson, Arizona.

#### 1. Check-in/Roll Call

##### Members Present:

Marlene Ashton  
Andee Leisner  
Deborah Muñoz-Chacon  
Vacancy  
Walter Soto

##### Appointed by:

Mayor  
Ward 2  
Ward 3  
Ward 4  
Ward 5

##### Members Absent:

Eddie Muniz  
Clarence Boykins

##### Appointed by:

Ward 1  
Ward 6

##### Others Present:

Liana Perez, Director, OEOP and Independent Police Review  
Lyle Rayfield, Manager, OEOP and Independent Police Review  
Mark Neihart, Director, Department of Procurement

#### 2. Approval of Minutes

Motion by Commissioner Leisner and seconded by Commissioner Ashton to approve the minutes of July 19, 2007, as submitted, passed by a vote of 4 to 0.

#### 3. Report from OEOP on the Procedure to Change a City Ordinance

Liana Perez reported that any proposed change to a City Ordinance would need to go to Mayor and Council for approval. A draft of the proposed changes would first be sent to the City Attorney's Office for review. Upon approval by the City Attorney, OEOP and the City Attorney's Office would then draft the appropriate correspondence to have the proposed changes put on the Mayor and Council agenda.

The Commission subsequently discussed the following options for improving attendance at scheduled meetings: increase Commission membership to two (2) appointees per Mayor/Council member; add advisory board members; decrease the number of consecutive absences from four (4) to three (3) for removal from the Commission by the City Clerk.

OEOP will research membership requirements for other City Boards and Commissions and report back to the Commission at the next meeting.

Under this item, Commissioner Soto also mentioned that he had been briefed by his staff that there “has been some additional, what would appear to be, subtle (procedural) changes (under CM@Risk)...in that the selection process occurs after (we) come to a hard dollar figure at the Guaranteed Maximum Price.” Ms. Rayfield commented that Mr. Neihart, upon his pending arrival, may be better able to address this issue. Commissioner Soto asserted that changes to the process are under the authority of OEOP and not Procurement. Neither Ms. Perez nor Ms. Rayfield were aware of any changes to the CM@Risk process and offered to look into the matter for a future agenda item.

Motion by Commissioner Muñoz-Chacon and seconded by Commissioner Ashton to propose a revision for Mayor & Council approval to decrease the number of consecutive absences from four (4) to three (3) for removal from the Commission by the City Clerk passed by a vote of 4 to 0.

#### **4. Retaliation Ordinance Subcommittee Report**

Commissioner Soto informed the Commission about the lack of retaliation ordinance data from the identified cities, as reported by OEOP. The Commission discussed the need for a formal complaint process, available to all vendors, to be incorporated into the Procurement Code. Mark Neihart commented on the claims process available through the City Clerk’s Office.

The Commission agreed to have OEOP and Procurement look at what would go into a formal complaint process. The Commission also requested that OEOP again provide the information gathered last year regarding the Pima County Non-retaliation Ordinance.

#### **5. Subcontractor Performance Standards**

Commissioner Ashton stated that she would like to see some type of evaluation related to subcontractor performance included with the paperwork submitted to OEOP by the prime contractor at the closeout of a project. A discussion on the feasibility and use of such evaluations followed. Ms. Perez clarified that MWBE certification is based on eligibility and not performance and that poor performance by a subcontractor could not be taken into consideration in the goal-setting process. Ms. Rayfield suggested that documented poor performance could be considered in the submission of a Good Faith Efforts Waiver request. The Commission agreed that if such an evaluation were implemented, the subcontractor should have the opportunity to respond. Commissioner Soto reminded the Commission of the complaint process available through the Registrar of Contractors.

Mr. Neihart mentioned the Quality Assurance Survey for prime contractors and agreed to arrange for Dan Longanecker, Sr. Contract Officer and Chair of the Task Force that developed the survey, to attend the next Commission meeting and speak to the Commission on the development and use of this evaluation instrument.

#### **6. MWBE Newsletter**

The Commission discussed its intended involvement with the MWBE Newsletter. Commissioner Muñoz-Chacon agreed to coordinate researching and submitting information for the Commission’s portion of the Newsletter. It was suggested that Commission vacancies be noticed in the newsletter.

Ms. Perez offered to arrange for Sr. Equal Opportunity Specialist Leondra Price, the MWBE Newsletter editor, to speak to the Commission about the newsletter at the same meeting Ms. Price attends to talk about the AZ Steps Up Program.

**7. Governor's Initiative – AZ Steps Up**

Item 7 tabled until the next meeting at which Leondra Price is available to present.

**8. Certification Process**

Lyle Rayfield provided the Commission with copies of the Arizona Unified Certification Program Application and discussed the criteria for MWBE/DBE certification. The criteria are outlined in the Code of Federal Regulations and include sections on ownership and control, social and economic disadvantage, relationships with other businesses, financial information, and a personal net worth of not more than \$750,000. Discussion by the Commission followed.

**9. Call to the Audience**

This item was taken out of order so that Mr. Neihart could address the Commission's concerns raised under Items 4 and 5.

Mr. Neihart also provided the Commission with additional information on the Ochoa Park Project, discussed at the last meeting. Mr. Neihart explained that Ochoa Park was a "pocket" park, with an estimated cost within the bid threshold; the park was built under the JOC for Park Area Improvements. Mr. Neihart also informed the Commission that the prime contractor far exceeded the MWBE goal for this project – the established goal was 1% and the prime achieved 10% in subcontractor payments. The Commission agreed to forward all of this information to Chair Boykins for his opinion related to any future action regarding this item. Mr. Neihart offered to attend the next meeting for further discussion.

**10. Future Agenda Items**

- Quality Assurance Survey
- Commission Membership & City Ordinance Update
- CM@Risk Procedural Changes
- Disparity Study Update
- Pima County Non-retaliation Ordinance

**11. Adjournment**

Motion by Commissioner Soto and seconded by Commissioner Muñoz-Chacon to adjourn, passed by a vote of 4-0.

Adjournment at 7:50 pm.

**Next Meeting:** September 27, 2007, 5:30 pm